

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 217.3 and 217.6 and the Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183), the Department of Human Services amends Chapter 112, "Licensing and Regulation of Child Foster Care Facilities," Chapter 113, "Licensing and Regulation of Foster Family Homes," Chapter 117, "Foster Parent Training," Chapter 175, "Abuse of Children," and Chapter 202, "Foster Care Placement and Services," Iowa Administrative Code.

The purpose of these amendments is to implement federal law, namely, the Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183), which was issued October 23, 2014, to require state child welfare agencies to implement procedures for the identification of, and provision of services to, victims of sex trafficking. The law also includes requirements for state child welfare agencies to enhance foster care transition programs in such a way that caretakers will make better decisions that better prepare youth for adulthood. The requirements include, for example, providing the child who ages out of foster care proper identification needed to gain employment.

These amendments, some of which align definitions across chapters and resolve an inconsistency in current rules with regard to the reporting of an address change by a foster parent, are to be implemented by October 1, 2015.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1997C** on May 27, 2015.

The Department received comments from two respondents during the public comment period. Both respondents suggested that the Department not use a specific URL within the amendments as it will need to be updated with each Web-site change and could add to confusion for the reader, especially because the Iowa Department of Public Health (IDPH) is about to launch a new Web site, after which the URL proposed in the amendments will not be valid. The following wording was suggested: "Training for mandatory reporters can be found on the Iowa Department of Public Health website by searching for mandatory reporter training on their website."

The Department agreed with the comments of the respondents and has revised the amendment found in Item 5, paragraph 117.8(4)"b." Paragraph 117.8(4)"b" now reads as follows:

"b. Training provider. The foster parent shall be responsible for obtaining the required two-hour mandatory reporter training on child abuse identification and reporting as approved by the Iowa department of public health. A list of approved training opportunities is available on the Iowa department of public health Web site by searching 'mandatory reporter training.'"

In addition, a technical change has been made to correct the punctuation in the first sentence of subparagraph 202.11(7)"c"(6).

The Council on Human Services adopted these amendments on July 8, 2015.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 217.6 and P.L. 113-183.

These amendments will become effective October 1, 2015.

The following amendments are adopted.

ITEM 1. Amend paragraph **112.6(2)"a"** as follows:

a. ~~The~~ When moving to a new home, the foster family fails to notify the ~~licensing worker when moving to a new home~~ department and the recruitment and retention contractor within ~~30~~ seven working days ~~after the date of moving~~ of the move to a new home.

ITEM 2. Adopt the following new rule 441—112.11(237):

441—112.11(237) Required training on the reasonable and prudent parent standard. Each group facility shall have an on-site official authorized to apply the reasonable and prudent parent standard as defined in rule 441—202.1(234). Within one year of being identified as an authorized on-site official, each authorized official shall complete the same department-approved training on the reasonable and prudent parent standard as required for foster parents and referenced in 441—subrule 117.8(6).

ITEM 3. Amend rule **441—113.2(237)**, definitions of “Department,” “Foster family home” and “Service area manager,” as follows:

“*Department*” means the Iowa department of human services and includes the local offices of the department.

“*Foster family home*” means a home in which an individual person or married couple ~~who~~ wishes to provide or is providing, for a period exceeding 24 consecutive hours, board, room, and care for a child in a single family living unit.

“*Service area manager*” means the department employee responsible for managing department offices ~~within a department service area~~ and personnel within the service area and for implementing policies and procedures of the department.

ITEM 4. Amend subrule 113.8(2) as follows:

113.8(2) In-service training. All licensed foster parents shall complete six hours of in-service training annually as required by rule 441—117.7(237).

a. All foster parents shall complete training in medication management, cardiopulmonary resuscitation, ~~and~~ first aid, and the reasonable and prudent parent standard in their first year of licensure as required by rule 441—117.8(237).

b. All licensed foster parents shall complete mandatory reporter training on child abuse identification and reporting in their first year of licensure and every five years thereafter as required by rule 441—112.10(232) and 441—subrule 117.8(4).

ITEM 5. Amend paragraph **117.8(4)“b”** as follows:

b. *Training provider.* The foster parent shall be responsible for obtaining the required two-hour mandatory reporter training ~~in~~ on child abuse identification and reporting as approved by the Iowa department of public health. A list of approved training opportunities is available at: http://www.idph.state.ia.us/bh/abuse_ed_review.asp. on the Iowa department of public health Web site by searching “mandatory reporter training.”

ITEM 6. Adopt the following new subrule 117.8(6):

117.8(6) Reasonable and prudent parent standard. Before the end of the foster parent’s initial license year, each foster parent shall complete training on the reasonable and prudent parent standard as defined in rule 441—202.1(234). Foster parents licensed before October 1, 2015, shall complete this training no later than September 30, 2016.

ITEM 7. Amend rule **441—175.21(232,235A)**, definition of “Department,” as follows:

“*Department*” means the Iowa department of human services and includes the local offices of the department.

ITEM 8. Adopt the following new definitions of “Commercial sex act,” “Severe form of trafficking in persons,” “Sex trafficking” and “Sex trafficking victim,” in rule **441—175.21(232,235A)**:

“*Commercial sex act*,” as provided in 22 U.S.C. Section 7102(4), means any sex act on account of which anything of value is given to or received by any person.

“*Severe form of trafficking in persons*,” as provided in 22 U.S.C. Section 7102(9)(A), means sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age.

“*Sex trafficking*,” as provided in 22 U.S.C. Section 7102(10), means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

“*Sex trafficking victim*,” as provided in 42 U.S.C. Section 675(9), means any of the following:

1. A victim of sex trafficking.
2. A victim of a severe form of trafficking in persons.

ITEM 9. Amend subrule 175.22(1) as follows:

175.22(1) Any report made to the department which alleges child abuse, as defined in Iowa Code section 232.68, or constitutes a complaint that a child is a child in need of assistance, as defined in Iowa Code section 232.2(6), shall be accepted for assessment.

ITEM 10. Amend subrule 175.24(4) as follows:

175.24(4) If the report of suspected child abuse fails to constitute a child abuse allegation.

a. When it is determined that the report of suspected child abuse fails to constitute ~~an~~ a child abuse allegation of child abuse, the report of suspected child abuse shall become a rejected intake and shall be evaluated to determine whether the information reported constitutes a complaint that a child is a child in need of assistance.

b. When it is determined that a report of a child needing the assistance of the court fails to meet the definition of a child in need of assistance, the report shall become a rejected intake.

c. Rejected intake information shall be maintained by the department for three years from the date the report was rejected and shall then be destroyed.

ITEM 11. Amend subrule 175.24(5) as follows:

175.24(5) Intake information shall be provided as follows:

a. The county attorney shall be notified of all reports of suspected child abuse.

b. When a report of suspected child abuse is received which does not meet the requirements for an assessment or is accepted as a family assessment, and there is information about a criminal act harming a child, the department shall notify law enforcement of the report.

c. If the department has reasonable cause to believe that a child or youth for whom the department has responsibility for placement, care, or supervision is or is at risk of being a victim of sex trafficking or a severe form of trafficking in persons, the department must identify that child or youth as such, document it in agency records, and refer the information as necessary to determine appropriate services, in accordance with 42 U.S.C. Section 671(a)(9)(C). Additionally, the department shall report the child or youth immediately, and in no case later than 24 hours, to law enforcement authorities, in accordance with 42 U.S.C. Section 671(a)(34).

ITEM 12. Rescind subrule **175.24(6)**.

ITEM 13. Adopt the following **new** paragraph **175.25(1)“c”**:

c. If the department has reasonable cause to believe that a child or youth for whom the department has responsibility for placement, care, or supervision is or is at risk of being a victim of sex trafficking or a severe form of trafficking in persons, the department must identify that child or youth as such, document it in agency records, and determine appropriate services, in accordance with 42 U.S.C. Section 671(a)(9)(C). Additionally, the department shall report the child or youth immediately, and in no case later than 24 hours, to law enforcement authorities, in accordance with 42 U.S.C. Section 671(a)(34).

ITEM 14. Adopt the following **new** definitions of “Age- or developmentally appropriate activities” and “Reasonable and prudent parent standard” in rule **441—202.1(234)**:

“*Age- or developmentally appropriate activities*” means activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and in the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child.

“*Reasonable and prudent parent standard*” means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encourage the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the state to participate in extracurricular, enrichment, cultural, and social activities. For the purposes of this

definition, “caregiver” means a foster parent with whom a child in foster care has been placed or a designated official for a child care institution (including group homes, residential treatment, shelters, or other congregate care settings) in which a child in foster care has been placed.

ITEM 15. Amend rule 441—202.11(234) as follows:

441—202.11(234) Services to the child. The department service worker shall maintain a continuous relationship with the child.

202.11(1) to 202.11(5) No change.

202.11(6) ~~When the child has reached the age of majority under state law, the department shall provide a free copy of the child’s health and education records to the child when the child leaves foster care. Throughout the provision of care, the foster care provider is permitted to use the reasonable and prudent parent standard to create opportunities for participation of the child in age- or developmentally appropriate activities.~~

202.11(7) Independent living Transition planning program. The purpose of the ~~independent living transition planning~~ program is to provide ~~supports and services, supports, activities and referrals to programs~~ that assist children currently or formerly in foster care in acquiring skills and abilities necessary for transition to successful adult living adulthood. The ~~independent living transition planning~~ program offers a life skills assessment, transition plan development, and transition-related services, supports, activities and referrals to programs.

a. Eligibility. To be eligible for the ~~independent living transition planning~~ program, a child must be or have been in foster care as defined by rule 441—202.1(234) or 45 Code of Federal Regulations 1355.20 as amended to October 1, 2008, and must meet at least one of the following eligibility requirements:

- (1) Is currently in foster care and is ~~16~~ 14 years of age or older.
- (2) Is under the age of 21 and was adopted from foster care ~~on or after October 7, 2008, and was at least 16 years of age at the time of adoption or older.~~
- (3) Is under the age of 21 and was placed in a subsidized guardianship arrangement from foster care ~~on or after October 7, 2008, and was at least 16 years of age at the time of placement or older.~~
- (4) No change.
- (5) Was formerly in foster care and is eligible for and participating in Iowa’s postsecondary education and training voucher (ETV) program as described at 42 U.S.C. Section 677(a)(6-7).

b. Assessment. A life skills assessment shall be administered to all children in foster care who are aged ~~16~~ 14 or older. An assessment shall be available upon request to any child who has been discharged from foster care but meets the eligibility requirements in paragraph “a.” The assessment is designed to evaluate the child’s strengths and needs in areas including, but not limited to:

- (1) Education,
- (2) Physical and mental health,
- (3) Employment,
- (4) Housing and money management, and
- (5) Supportive relationships.

c. Transition plan development. A transition plan shall be completed for all children in foster care who are aged ~~16~~ 14 or older, as provided in Iowa Code section 232.2(4) “f.” Transition plan development shall also be available upon request to any child who has been discharged from foster care but meets the eligibility requirements in paragraph “a,” but the transition plan will not be part of a case permanency plan. Transition plan requirements include the following:

- (1) The transition plan shall be personalized at the direction of the child and shall be developed in consultation with the child and reviewed by the department in collaboration with a child-centered transition team, honoring the goals and concerns of the child.
- (2) The transition plan shall document that the child received and signed a document that describes the rights of the child with respect to education, health, visitation, and court participation. The document must be signed by the child indicating that the child has been provided with a copy of the document and that the rights contained in the document have been explained to the child in an age-appropriate way.

(3) The transition plan shall document that the child received a copy of any credit report pertaining to the child as provided by the child's caseworker on an annual basis until the child is discharged from foster care. The child must receive assistance from the child's caseworker in interpreting and resolving any inaccuracies in the report.

(4) The transition plan shall document that any child leaving foster care at the age of 18 or older was provided with the following documents and information unless the child has been in foster care for less than six months or is not eligible to receive such document:

1. An official or certified copy of the child's birth certificate.
2. The child's social security card.
3. A driver's license or identification card issued by the state to the child.
4. Health insurance information.
5. A copy of the child's medical and education records.

(5) The transition plan shall document that the caseworker provided to the child, at the case permanency plan review in the 90 days before the child reached the age of 18, information and education about the importance of having a durable power of attorney for health care and a copy of the state's form used to identify such a proxy. The child has the option to complete the form at the age of 18 or older.

~~(2)~~ (6) The transition plan shall address the strengths and needs identified in the assessment; and detail the steps, services, supports, activities and referrals to programs needed to implement the plan to best assist the child in preparing for successful adulthood; and document the membership of the transition team and the meeting dates for the team shall be documented in the transition plan.

~~(3)~~ (7) The transition plan shall be reviewed and updated at each case review after the plan's initial development; within 90 days before the child's eighteenth birthday; and within 90 days before the child is expected to leave foster care if the child remains in care after reaching the age of 18.

d. Transition services. Children shall be offered services, supports, activities and referrals to programs within, ~~some or all of~~ but not limited to, the five areas described below according to the child's age and development, strengths and needs, permanency goal, and placement as documented by in the ~~transition~~ case permanency plan.

(1) Education skills increase the child's chances of completing high school or obtaining a ~~GED~~ high school equivalency and of entering a satisfying career. Services may include assistance in academic advising and guidance, secondary and postsecondary educational support, records transfer coordination, tutoring, financial aid planning, career exploration, mentoring, and career advising. ~~Education financial~~ Financial assistance for postsecondary education and training may be available to eligible children.

(2) Physical and mental health skills promote healthy physical, mental and emotional functioning. Health education services may include guidance on risk prevention, how to be healthy and fit, how to self-advocate for health care needs and access to health insurance, how to select medical professionals, and how to make informed decisions regarding treatment, lifestyle considerations, spirituality, and recreation. Provision must be made for the child's application for adult services if it is likely the child will need or be eligible for services or other support from the adult service system.

(3) No change.

(4) Housing and money management skills prepare a child to select, manage, and maintain safe and stable housing. Services may include lessons on the physical maintenance and cleaning of a house and guidance on managing personal finances, such as financial decisions, budgeting, bill paying, use of credit, and financing. Financial assistance for items, including room and board, may be available to children who meet the eligibility criteria of the ~~preparation for adult living~~ aftercare services program pursuant to 441—Chapter 187.

(5) No change.

ITEM 16. Amend subrule 202.15(2) as follows:

202.15(2) The department worker shall develop the case permanency plan with the child's parents, unless the child's parents are unwilling to participate in the plan's development, and with the child, unless the child is unable or unwilling to participate. For a child 14 years of age or older in foster care, the case permanency plan must be developed in consultation with the child. The child may choose up to two

members of the case planning team who are not the child's foster parent or caseworker. The department may reject an individual selected by a child at any time if the department has good cause to believe the individual would not act in the best interests of the child. One individual selected by the child to be a member of a child's case planning team may be designated to be the child's advisor and, as necessary, advocate with respect to the use of the reasonable and prudent parent standard.

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